IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 18283 of 2004

Between:

1 All India Progressive Minorities Front, 5-9-47/11, Basheer Bagh, Hyderabad,
Registration No. 1021/90, rep by its Secretary, S.M.A., Qadeer,S/o. S.A. Hafeez, aged 50 years,
R/o. Basheer Bagh, Hyderabad.
2 A.P. Wakf Protection Forum (Joint Forum of Registered Muslim Organisations and
Individuals), 103, Madhava Apartments, Hill Colony, Khairatbad, Hyderabad - 500 004 rep by Ahmed Abdul Maqeet, S/o. Mohd. Abubakar, R/o. Malakpet, Hyderabad.

..... PETITIONERS

AND

1 Government of A.P., Minorities Welfare Department, rep by its Secretary, Secretariat, Saifabad, Hyderabad.
2 A.P. State Wakf Board, rep by its Chief Executive Officer, Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, Order or direction one more particularly in the nature of Writ of Mandamus declaring the action of the first respondent in not appointing the successors to the posts of the Members of Second respondent Board caused by resignation of four members and in not allowing the second respondent Board to function, as being illegal, arbitrary, unconstitutional and contrary to the duties imposed on the respondents under Wakf Act, 1995 and consequently direct the first respondent to forthwith appoint and fill-up the vacancies to the posts of four members and to permit the second respondent Board to function without any hindrance.

Counsel for the Petitioners : MR.S.NIRANJAN REDDY

Counsel for the respondent No.1: Advocate-General.

Counsel for the Respondent No.2 : MR.A.M.QURESHI

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1. All India Progressive Minorities Front and A.P. Wakf Protection Forum are the two petitioners who have questioned the action of the respondents in not appointing the successors to the posts of Members of 2nd respondent – Board caused by resignation of four Members and in not allowing 2nd respondent – Board to function, as arbitrary and contrary to the provisions of Wakf Act, 1995.

2. While the writ petition was pending, the Chairperson of respondent No.2 – Board has resigned on 04.11.2004. In nutshell, the grievance of the petitioners is that respondent No.1 ought to have taken steps to fill up all the vacancies to make the Board functional so as to enable the Board to exercise the powers and functions under the Wakf Act. Therefore, the directions prayed for had been sought in this writ petition filed as public interest litigation.

3. Ms. Abida Begum, Assistant Secretary to Government, Minorities Welfare Department, has filed affidavit stating that respondent No.2 – Board is one of the biggest Board in the country having under its control about 38,000 wakf institutions . The present Board was constituted by G.O.Ms.No.34, dated

02.11.2001 notifying elected Members and nominated Members. Chief Executive Officer of 2nd respondent has brought to the notice of the Government that 137 agenda items have accumulated relating to the institutions, managing the Committees, Mutawalies, etc., but the said items have been deferred for more than 4 times since February, 2004, on one pretext or the other. It is averred that Board indulged in several irregularities . Board constituted Sub-Committees in 2001 itself. Sub-Committees failed to conduct spot inspection though the matters were pending for more than two years. The Sub-Committees did not convene a single meeting since 2001. It is stated that the State Government had, in exercise of the powers conferred under Section 99 of Wakf Act, issued show-cause notice as to why the Board should not be superseded. Reference has been made that because of the pendency of the writ petitions, no further steps could be taken pursuant to show-cause notice. Now it is stated that show-cause notice will come up for consideration in the ensuing Meeting. It is stated that since show-cause notice has been issued to the Wakf Board for supersession, there is

no proposal to fill up the remaining Members to the Board which is superseded and functions of the Board can be carried out under the provisions of Wakf Act effectively.

4. Considering the facts, as narrated above, we are of the view that since action had already been initiated by the State Government under Section 99 of the Act, the prayer made in the writ petition cannot be allowed and eventually the Board is superseded. The respondents will have to take appropriate steps in the matter for constituting a Board in accordance with law, for which no direction as of today can be issued and in this public interest litigation we are not expected to issue any direction for the time being in view of the pendency of the proceedings for supersession, for which show-case notice has already been issued. May be that after the decision is taken on the show-cause notice, steps will have to be taken by the State

Government appropriately in accordance with law. We are informed that Board meeting is fixed on 11.12.2004. Considering the facts and

circumstances of the case, we dismiss the writ petition. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 08.12.2004.

VRK.

To

1. The Secretary to Government, Minorities Welfare Department, Secretariat, Saifabad, Hyderabad.
2. The Chief Executive Officer, A.P. State Wakf Board, Nampally, Hyderabad.
3. The Officer concerned, Public Interest Litigation Cell, High Court Buildings, Hyderabad.
4. The Secretary, A.P. State Legal Aid & Advisory Board, High Court Buildings, Hyderabad.
5. The Secretary to Government of A.P., Home Department, Secretariat, Hyderabad.
6. Two CCs to Advocate-General, High Court Buildings, Hyderabad (OUT).
7. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.P.NO. 18283 OF 2004.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 08.12.2004.